

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

MICHAEL D. LEATHERWOOD,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. CIV-12-251-C
	)	
JOHN WHETSEL, et al.,	)	
	)	
Defendants.	)	

ORDER OF DISMISSAL WITHOUT PREJUDICE

This civil rights action, brought by a prisoner proceeding pro se, was referred to United States Magistrate Judge Shon T. Erwin, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Erwin entered a Report and Recommendation on January 31, 2013, to which Plaintiff has timely objected. The Court therefore considers the matter de novo.

In his objections, Plaintiff argues that neither Younger nor Heck\* require dismissal. In essence, Plaintiff argues the merits of his revocation of August 2010 – whether he is subject to probation conditions once he is serving a prison sentence of revocation and whether the search of his correspondence and telephone calls was reasonable under state probation policies. As Judge Erwin found in the Report and Recommendation, Plaintiff's arguments prove the necessity of abstention under Younger and/or dismissal under Heck, regardless of how he attempts to frame his ultimate allegations. In short, the Court finds no argument of fact or law asserted by Plaintiff requires or permits a result contrary to that reached by Judge Erwin.

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\* See Younger v. Harris, 401 U.S. 37 (1971), and Heck v. Humphrey, 512 U.S. 477 (1994).

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons announced therein, the Motions to Dismiss of Defendants Whetsel, Basehore, Bass, Gieger, Prater, and Welker (Dkt Nos. 54, 65, and 88) are GRANTED and this action is DISMISSED WITHOUT PREJUDICE. All other pending motions are DENIED AS MOOT.

IT IS SO ORDERED this 14th day of March, 2013.



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ROBIN J. CAUTHRON  
United States District Judge